IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 89 OF 1991

State of Maharashtra .. Appellant

versus

Javed Yunus Dagli .. Respondents

...

None appears for the appellant.

None for the respondent.

CORAM : V.M. KANADE, J

DATED : 24th November 2004.

P.C:-

1. None appears for the Customs. With the assistance of the learned APP, I have gone through the Record and Proceedings and the judgement of the trial Court. This is an old appeal of the year 1991 filed by the State for enhancement of sentence.

2. The State is challenging the judgement and order passed by Addl.Chief Metropolitan Magistrate, 3rd Court, Esplanade, Bombay in case no.31/CW/90. By the said judgement and order, the respondent accused was convicted u/s.135(1)(a) r/w 135(1)(ii) of the Customs Act and sentenced to suffer SI for one day and to pay fine of Rs.70,000/- and in default to suffer RI for three months. The State has filed this appeal seeking enhancement of sentence. The judgement and order was delivered by the Metropolitan Magistrate on 1st November 1990. More than 14 years have passed. The prosecution case is that the accused was apprehended at the Airport while he was proceeding to go to Dubai and foreign currency of 2343 Kuwaiti Dinars and 295 Bahrain Dinars was found in his possession. The foreign currency was equivalent to Indian currency of Rs.1,18,089.50. The trial Court convicted the accused. However while awarding sentence, the trial Court observed that the accused was not a regular smuggler indulging in smuggling activities and when he was going to Dubai after having collected the currency notes from various persons. The trial Court has given cogent reasons as to why a minimum sentence was not to be awarded in the present

case. The trial Court however imposed a fine of Rs.70,000/- and in default the accused was to suffer RI for three months.

3. In my view, there is no reason to interfere with the said order. The finding of the trial Court is not perverse.

4. Appeal is dismissed.

V.M. KANADE, J